

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2004-212-S

IN RE: Application of DEVELOPMENT)	OFFICE OF REGULATORY STAFF
SERVICE, INC. for Approval of)	PROPOSED ORDER ON
New Schedule of Rates and Charges)	APPLICATION FOR
For Sewage Service Provided to)	RATES AND CHARGES
Residential and Commercial)	
Customers in all areas Served.)	
)	

INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (“the Commission”) on an application for increases in sewer rates and charges filed by Development Service, Inc. (“DSI”). DSI’s application was accepted by the Commission pursuant to S.C. Code Ann. § 58-5-210 *et. seq.* and 26 S.C. Regs. 103-512. DSI’s application was filed on July 23, 2004.

By correspondence, the Commission instructed DSI to publish a prepared Notice of Filing, one time, in a newspaper of general circulation in the areas affected by DSI’s application. The Notice of Filing indicated the nature of the application and advised all interested persons desiring to participate in the scheduled proceedings of the manner and time in which to file appropriate pleadings for inclusion in the proceedings. In the same correspondence, the Commission also instructed DSI to notify directly, by U.S. Mail, each customer affected by the applications by mailing each customer a copy of the Notice of Filing. DSI furnished the Commission with an Affidavit of Publication demonstrating that the Notice of Filing had been

duly published and with a letter in which DSI certified compliance with the instruction of the Commission to mail a copy of the Notice of Filing to all customers affected by the applications. No petitions to intervene were filed.

The Office of Regulatory Staff made on-site investigations of DSI's facilities, audited DSI's books and records, and gathered other detailed information concerning DSI's operations. Prior to January 1, 2005, the Public Service Commission staff also made on-site investigations.

On January 5, 2005 at 10:30 a.m., a public hearing concerning the matters asserted in DSI's application was held in the Commission's hearing room located at Synergy Business Park, 101 Executive Center Drive – Saluda Building, Columbia, SC. The full Commission, with Chairman Randy Mitchell presiding, heard the matter of DSI's application. Scott Elliott, Esquire and Charles Cook, Esquire represented DSI. Florence Belser, General Counsel of ORS, and Shannon Hudson, Esquire represented the Office of Regulatory Staff. David Butler, Esquire served as legal counsel to the Commission.

DSI presented the testimony of Keith G. Parnell, President for DSI. The Office of Regulatory Staff presented the testimony of Willie J. Morgan, Program Manager for the Office of Regulatory Staff Water and Wastewater Department, Dawn Hipp, Project Specialist for the Office of Regulatory Staff Water and Wastewater Department, and Sharon Scott, Office of Regulatory Staff Auditor.

BACKGROUND AND PROCEDURAL MATTERS

DSI is a privately owned company operating a collection only system in Richland County in the area around Dutch Square Shopping Mall. At the time of its Application, DSI provided sewer service to 67 commercial customers and 66 residential customers. DSI's present rate schedule was approved by the Commission in Order Number 96-44 dated January 19, 1996

(Docket Numbers 94-727-S and 94-728-S). The wastewater collected by DSI is treated by Bush River Utilities Inc. (“BRUI”), making DSI a wholesale customer of BRUI.

BRUI is a privately owned sewer company furnishing sewer collection and sewer treatment in Richland and Lexington Counties. BRUI and DSI (collectively “Companies”) are commonly owned by brothers Keith Parnell (President) and Ken Parnell (Vice President). DSI is the largest customer of BRUI. BRUI applied for a rate increase on August 18, 2004, and the Commission hearing on BRUI’s application was heard on January 20, 2005, approximately two weeks after the DSI hearing. Both Companies’ applications for rate increases contain substantially identical issues and identical rate schedules.

During the DSI hearing, counsel for DSI made a three part Motion requesting: 1) the Commission allow an extra five (5) days past the six-month time period for publishing an order in a rate case, consistent with the provisions of S.C. Code Ann. § 58-5-240(D); 2) consolidation of the DSI and BRUI sewer dockets, so that the evidence presented in both dockets would be available for consideration during deliberation in both dockets, and 3) an extension of the six-month time period for issuing an Order past the additional five (5) days allowed in S.C. Code Ann. § 58-5-240(D). *See* Commission Order No. 2005-29 (January 18, 2005), Docket No. 2004-212-S. The Commission granted the additional five (5) days for publishing the Order as allowed by S.C. Code Ann. § 58-5-240(D), but did not allow an extension beyond this additional five (5) days for publishing the Order. *Id.* The Commission, however, did allow the dockets of DSI and BRUI to be combined so that evidence presented in both dockets could be considered during deliberation. *Id.* Similarly, in the last rate case, the Commission combined the operations of the Companies for ratemaking purposes and, in a single Order addressing both rate applications, ordered the Companies to charge identical rates for residential and commercial customers due to

the relationship and dependence between BRUI and DSI. *See* Commission Order No. 96-44 (January 19, 1996), Docket No. 94-727-S Application of Development Service, Inc. for Approval of an Increase in Rates and Charges for Sewer Service and Docket No. 94-728-S – Application of Bush River Utilities, Inc. for Approval of an Increase in Rates and Charges for Sewer Service. In the 1996 Order, the Commission also set a wholesale rate for DSI which is dependent upon the rates charged by BRUI. *Id.* In this matter, the Commission has carefully considered the applications filed by the Companies and will issue separate Orders consistent with the Order allowing evidence from both dockets to be considered in reaching a determination. *See* Commission Order No. 2005-29 (January 18, 2005), Docket No. 2004-212-S.

FINDINGS OF FACT AND EVIDENCE SUPPORTING FINDINGS OF FACT

After thorough consideration of the entire record in the DSI and BRUI hearings, including the testimony and all exhibits, and the applicable law, the Commission makes the following findings of fact and conclusions of law with respect to DSI:

1. DSI is a sewer utility operating in Richland County, South Carolina in the area around Dutch Square Shopping Mall and is subject to the jurisdiction of the Commission pursuant to S.C. Code Ann. §58-5-10 et seq.

The evidence supporting this finding is contained in the application filed by DSI, in the testimony of DSI witness Parnell, and in prior Commission Orders in the docket files of the Commission, of which the Commission takes judicial notice. By filing its application, DSI admits that it is a public utility within the meaning of S.C. Code Ann. § 58-5-10 and submits itself to the jurisdiction of the Commission.

2. The appropriate test year period for purposes of this proceeding is the twelve-month period ending December 31, 2003.

DSI chose to file its application on the twelve months ending December 31, 2003. Accordingly, DSI picked the test year ending December 31, 2003. Based on DSI's proposed test year, the ORS utilized the same test period for its accounting and pro forma adjustments. A fundamental principle of the ratemaking process is the establishment of a historical test year with the basis for calculating a utility's operating margin and, consequently, the validity of the utility's requested rate increase. The test year is established to provide the basis for making the most accurate forecast of the utility's rate base, reserves, and expenses in the near future when the prescribed rates are in effect. *Porter v. South Carolina Public Service Commission*, 328 S.C. 222, 493 S.E.2d 92 (1997), *citing Hamm v. S.C. Pub. Serv. Comm'n*, 309 S.C. 282, 422 S.E. 2d 110 (1992). While the Commission considers a utility's proposed rate increase based upon occurrences within the test year, the Commission will also consider adjustments for any known and measurable out-of-test year changes in expenses, revenues, and investments, and will also consider adjustments for any unusual situations which occurred in the test year. Where an unusual situation exists which shows that the test year figures are atypical, the Commission should adjust the test year data. *See Southern Bell v. The Public Service Commission*, 270 S.C. 590, 244 S.E. 2d 278 (1978); *see also, Parker V. South Carolina Public Service Commission*, 280 S.C. 310, 313 S.E.2d 290 (1984), *citing City of Pittsburgh v. Pennsylvania Public Utility Commission*, 187 P.A. Super. 341, 144 A.2d 648 (1958); *Southern Bell v. The Public Service Commission*, 270 S.C. 590, 244 S.E.2d 278 (1978). Based on the information available to the Commission, the Commission is of the opinion, and therefore concludes, that the test year ending December 31, 2003 is appropriate for the purposes of this rate request.

3. The Commission will use the operating margin as a guide in determining the lawfulness of DSI's proposed rates and for the fixing of just and reasonable rates.

In its application, DSI does not specify or propose a particular rate setting methodology. “The Public Service Commission has wide latitude to determine an appropriate rate-setting methodology.” Heater of Seabrook v. Public Service Commission of South Carolina, 324 S.C. 56, 64, 478 S.E.2d 826, 830 (1996). The ORS, in support of its position and recommendations in this case, presented in its exhibits and testimonies information regarding the operating margins for per books test year, test year as adjusted, and Phase-I of the proposed increase. See Hearing Exhibit No. 4, P. i (Synopsis) and Audit Exhibit A. The ORS also presented various alternative operating margins and associated revenue requirements for those operating margins. Hearing Exhibit 3, Exhibit DMH-9. DSI neither supplied any operating margin information in its application nor supplied sufficient information on which rates could be set using rate of return on rate base methodology. Because the only information available relates to operating margin methodology, the Commission finds that operating margin is the appropriate rate-setting methodology to use in this case.

4. DSI is seeking an increase of \$66,960 under its proposed Phase-I rates.

By its Application, DSI is seeking an increase in its rates and charges for sewer service pursuant to a two-phase approach which DSI asserts results in an increase of sewer service revenues during Phase-I of \$73,713 and an additional increase in revenues of \$47,538 during Phase-II.

The evidence for this finding concerning the amount of the requested rate increase is contained in the application (as amended) by DSI. DSI application (as amended), Exhibit 2, P. 1 of 4. The testimony and exhibits of ORS witness Sharon Scott show that the level of operating revenues under Phase-I of the rates are \$321,826 which reflects ORS’ adjustments and a net authorized increase in operating revenues of \$66,960. ORS does not recommend the increase of

Phase-II rates as those rates are tied to construction and rates at BRUI. Since BRUI has also filed an application for an increase in rates and charges, and construction has not begun at BRUI, ORS asserts that the Phase-II rates are tied to costs that are not known and measurable.

We adopt the ORS's calculations of the increase in revenues, because the ORS's calculation appropriately reflects annualized charges for sewer service without any additional miscellaneous charges. ORS's adjustments to annualize the rates recognizes revenues for sewer service for a full year under the approved rates. We find that the annualized revenues as calculated by the ORS to be appropriate to use in establishing rates. Therefore, the Commission finds that DSI is seeking an increase in its revenues of \$66,960.

5. The appropriate operating revenues of DSI during the test year under present rates and after accounting and pro forma adjustments are \$254,866.

DSI's application shows per book test year total operating revenues of \$247,883. DSI application (as amended), Exhibit 2, P. 1 of 4. ORS began with the per book test year operating revenues of \$247,883, and then ORS proposed an adjustment to per book operating revenues to annualize service revenues. Hearing Exhibit 4, Audit Exhibit A and A-1. Staff's proposed adjustment results in an increase to per book operating revenues of \$6,983. ORS's adjustment was based on a bill frequency analysis. DSI amended its application and changed its revenues to include revenue in the amount of \$27,120 for contract service revenues. DSI proposes to charge \$27,120 to Midlands Utility, Inc., an affiliated company, for use of DSI's equipment. However, ORS witness Scott stated that ORS found no justification for DSI's amendment to its revenues and therefore did not allow the adjustment. Scott Prefiled Testimony, P. 5, ll. 3-10; Hearing Exhibit No. 4, Audit Exhibit A-1. While not allowing the DSI revenue adjustment for lack of justification, witness Scott stated that she did make and allow several adjustments on the

Depreciation Schedule to allocate costs to BRUI and Midlands Utility, Inc. (MUI), another sewer utility owned by Keith Parnell and Ken Parnell.

We find the adjustments proposed by ORS to be reasonable and adopt the ORS's adjustments. The effect of the ORS adjustments annualizes the test year revenues and as stated by witness Scott was justified and therefore verified by her audit. DSI has offered no further explanation of the proposed adjustment for contract service revenues. Therefore, we find the appropriate operating revenues for the test year after accounting and pro forma adjustments to be \$254,866.

6. The appropriate operating expenses for DSI for the test year under present rates and after accounting and pro forma adjustments are \$261,415.

The parties offered certain adjustments affecting operating expenses for the test year. DSI witness Parnell and ORS witnesses Morgan, Hipp and Scott offered testimony and exhibits detailing adjustments proposed by the parties. See Hearing Exhibits 2, 3, and 4 and DSI's Application. This section addresses the adjustments:

A) Officer's Salary [ORS Adjustment #3]

- 1) Position of DSI: DSI proposes to increase officer's salary by \$534.
- 2) Position of ORS: ORS found that no salary increase had been given and the increase was due to DSI's rounding of officer's salary. Prefiled Testimony of Scott, P.5, ll. 11-14. Hearing Exhibit No. 4, Audit Exhibit A-1.
- 3) Decision of the Commission: According to witness Scott, this adjustment does not reflect a known and measurable change. DSI offered no further explanation for this proposed adjustment. Therefore, because the adjustment does not reflect a known and measurable

out-of-test year change, we find that the adjustment cannot be accepted. DSI's proposed increase of officer's salary of \$534 is not allowed.

B) Other Salaries [ORS Adjustment #4]

- 1) Position of DSI: DSI proposes to increase other salaries by \$885.
- 2) Position of ORS: ORS found that no salary increase had been given and the increase was due to DSI's rounding of other salaries. Scott Prefiled Testimony, p. 5, ll. 15-18; Hearing Exhibit No. 4, Audit Exhibit A-1.
- 3) Decision of the Commission: ORS witness Scott testified that this adjustment appears to be due to rounding. Witness Scott further stated that no salary increases had been given and that the proposed adjustment was not known and measurable. Because the adjustment cannot be verified, DSI's proposed increase of other salaries is not allowed.

C) Expenses for Repairs [ORS Adjustment #5]

- 1) Position of DSI: DSI proposes to increase expenses for repairs by \$45.
- 2) Position of ORS: ORS neither found justification for this increase nor a known and measurable out of test year change, therefore, no adjustment was made for DSI's proposed increase in expenses for repairs. Scott Prefiled Testimony, P. 5, ll. 19-22; Hearing Exhibit No. 4, Audit Exhibit A-1.
- 3) Decision of the Commission: Because ORS did not find justification for this adjustment and because DSI offered no further explanation for this adjustment, we do not accept the proposed increase in repairs expense. DSI's proposed increase in expenses for repairs is not allowed.

D) Expenses for Taxes Other Than Income [ORS Adjustment #6]

- 1) Position of DSI: DSI proposes to decrease expenses for Taxes Other Than Income by \$1,126.
- 2) Position of ORS: ORS found no justification or other known and measurable change for this increase, therefore, ORS made no adjustment. Scott Prefiled Testimony, P. 6, ll. 1-5; Hearing Exhibit No. 4, Audit Exhibit A-1.
- 3) Decision of the Commission: Because no justification for the proposed decrease to Taxes Other Than Income was found in the ORS audit or produced at the hearing, the Commission denies this adjustment proposed by DSI. Accordingly, the proposed decrease of \$1,126 to Taxes Other Than Income is not allowed.

E) Interest Expenses [ORS Adjustment #7]

- 1) Position of DSI: DSI proposes to include interest expense of \$5,751 as an above-the-line operating expense.
- 2) Position of ORS: ORS found no justification to include interest expense as an above-the-line operating expense. ORS does not include interest expense as an above-the-line operating expense, but ORS does include interest expense of \$1,805 in computing operating margin. The \$1,805 is computed using the adjusted rate base which ensures that only interest expense associated with DSI's regulated operations is allowed.
- 3) Decision of the Commission: The Commission adopts the ORS proposed interest expense of \$1,805. DSI has provided no justification for including interest expense as an above-the-line item.

F) Depreciation Expense [ORS Adjustment #8]

- 1) Position of DSI: DSI proposes to depreciate its plant over 20 years and its equipment over 7 years for an increase in depreciation expense of \$9,697.
- 2) Position of ORS: The Water/Wastewater Department proposes basing depreciation on Florida Public Service Commission Water and Wastewater System Regulatory Law as recommended by NARUC. Accordingly, ORS recommends that the plant be depreciated over 45 years. DSI equipment includes a pick-up truck, backhoe, computer, desk, chemical sprayer, and an emergency generator. The truck and backhoe are used by DSI, BRUI, and Midlands Utility, Inc. ORS recommends a 6-year depreciation for the truck and a 12-year depreciation for the backhoe with the relevant depreciation expense further allocated among the three companies that use the equipment. The computer and desk are not currently being capitalized by DSI, and ORS recommends their capitalization with a service life of 6 and 15 years, respectively. The chemical sprayer is being used solely at BRUI, and the generator is being used solely at Midlands Utility, Inc. Because DSI is neither using the chemical sprayer nor generator, no depreciation expense is recommended to be allocated to DSI for these items. ORS's proposed net depreciation expense is \$3,907. ORS Witnesses Morgan and Scott Direct Testimonies; Hearing Exhibits 2 and 4; Morgan Exhibit WJM-2 and Audit Exhibit A-2.
- 3) Decision of the Commission: We find that ORS's adjustments are appropriate and adopt them as computed. Although the Commission ordered a 50-year service life in the last Order, we find the ORS recommended 45-year service for plant is reasonable and sound. *See* Commission Order No. 96-44 (January 19, 1996), Docket No. 94-727-S Application of Development Service, Inc. for Approval of an Increase in Rates and Charges for Sewer

Service and Docket No. 94-728-S – Application of Bush River Utilities, Inc. for Approval of an Increase in Rates and Charges for Sewer Service. NARUC's recommendation to follow the Florida Public Service Commission Water and Wastewater System Regulatory Law for service life is respected by this Commission.

G) Treatment Expenses [ORS Adjustment #9]

- 1) DSI Position: BRUI treats DSI's wastewater collections, and DSI pays BRUI monthly charges for BRUI's treatment of the wastewater. The monthly treatment expense charged by BRUI to DSI is computed by aggregating the monthly service charges which BRUI would charge each DSI customer if the customer was directly on BRUI's system. Seventy-five percent (75%) of this aggregate figure is then charged to DSI as a monthly service charge. The effect is that the monthly service charge paid to BRUI is 75% of DSI's revenue. This fee method was approved by the Commission in DSI's last rate case. *See* Commission Order No. 96-44 (January 19, 1996), Docket No. 94-727-S Application of Development Service, Inc. for Approval of an Increase in Rates and Charges for Sewer Service and Docket No. 94-728-S – Application of Bush River Utilities, Inc. for Approval of an Increase in Rates and Charges for Sewer Service. DSI proposes to adjust its treatment expense it pays to BRUI based on the amount of rate increases requested by BRUI in its application for an increase in rates and charges.
- 2) ORS position: Currently, DSI and BRUI have the same approved rates. *Id.* ORS proposes to adjust treatment expense to reflect seventy-five percent (75%) of the adjusted DSI revenue. This amount is \$19,477. ORS did not base its proposed adjustment on BRUI's proposed rates, because BRUI's proposed rates have not been approved and

DSI's proposed adjustment is speculative. ORS Witness Scott Direct Testimony PP. 9-11 and Audit Exhibit A-1.

- 3) Decision of the Commission: The Commission finds the ORS adjustment is appropriate. BRUI has not been approved a rate increase. Accordingly, we cannot ascertain the monthly charges for treatment which BRUI will charge to DSI until the BRUI rate case is decided. Any adjustment proposed before the BRUI rate case is finalized is speculative.

H) Professional Services [ORS Adjustment #11]

- 1) DSI Position: DSI proposes to include rate case expenses of \$700, bank services and loan closing fees for the construction loan of \$1,800, and to increase regular accounting services by \$100 for a total adjustment of \$2,600.
- 2) ORS position: ORS removes the rate case expenses as a professional service and adjusts for the rate case expenses separately in Rate Case Expenses, Adjustment L [ORS Adjustment #13]. Further, since DSI is not undergoing construction, ORS removed the \$1,800 loan closing fees for the construction loan. Construction is proposed only at BRUI and Midlands Utility, Inc., and the loan proceeds will not be used at DSI. Therefore, in order not to overcharge the customers of DSI by including the construction loan or costs associated with the construction loan directly to DSI, ORS does not include any costs associated with securing the construction loan in DSI's rate case. ORS does propose an adjustment of \$100 to this account to reflect an increase in accounting services during the test year from \$900 to \$1,000. ORS Witness Scott Direct Testimony PP. 9-11 and Audit Exhibit A-1.
- 3) Decision of the Commission: The Commission agrees with the ORS position on disallowance of construction loan costs since DSI is not undergoing construction. DSI

will pay its share of loan costs by paying the monthly treatment charges to BRUI. If BRUI includes the costs of the loan in its expenses on which rates will be set, BRUI will recoup the costs of the loan through its charges to its customers, including DSI. The Commission also agrees with the ORS to treat rate case expenses as a separate adjustment. Accordingly, expenses for this rate case will be discussed separately. The Commission agrees with the ORS recommended adjustment of \$100 for accounting services during the test year as ORS has verified this increase during its audit. As such, the proposed increase represents a known and measurable change which is appropriately included in expenses.

I) Rate Case Expenses [ORS Adjustment 13]

- 1) Position of DSI: DSI proposes to adjust for rate case expenses associated with this filing by amortizing \$24,950 for rate case expenses over a three year period for an adjustment of \$8,317. DSI presented testimony that three years is the standard amortization period used for rate case expenses that has been approved by the Commission in the past. Further, in response to ORS Data Requests, DSI stated “this is the standard amortization period used for rate case expense that has been approved by the Commission in the past.” Hearing Exhibit No. 6, Data Request No. 1.38.
- 2) Position of ORS: ORS proposes to amortize the rate case expenses of \$9,457 over a 5-year period. ORS Witness Scott Direct Testimony P. 12, e. 17- P. 13, l.5. The adjustment is comprised of \$700 for expenses for accounting services during the test year and \$8,757 for legal expenses. At the hearing, ORS did not object to DSI submitting a late-filed exhibit for rate case expenses. ORS received the late-filed exhibit on Monday, January 24, 2005, and the exhibit indicates total rate case legal expenses of \$24,950. ORS

considered time between rate cases as one measure for an amortization period. DSI's previous rate case proceedings were in 1996 and 1987 resulting in approximately 8.5 years between rate cases. However, ORS testified that an 8.5 year amortization period is too long and proposed a more reasonable amortization period of 5 years. ORS Witness Scott Direct Testimony and Audit Exhibit A-1. Using the ORS amortization period of 5 years with the updated rate case expenses from hearing Exhibit 8, results in an adjustment of \$5,130.

- 3) Decision of the Commission: The Commission concludes that the ORS adjustments for rate case expenses are appropriate for the purposes of this Order. The ORS adjustment is based on expenses incurred during the test year and billing invoices detailing legal fees charged as of the hearing date. The Commission adopts a five-year amortization period as a reasonable period for DSI to recover these expenses without causing undue hardship on ratepayers. DSI's position that three years is the standard amortization period used for rate case expenses that has been approved by the Commission in the past is not sufficient legal justification for use of a three year amortization period. The Commission cannot make an adjustment based merely on past Commission practice. *Hamm v. South Carolina Public Service Comm'n*, 309 S.C. 282, 422 S.E.2d 110 (1992). The Commission will therefore allow \$25,650 in rate case expenses to be recovered over 5 years.

J) Telephone Expenses [ORS Adjustment #14]

- 1) Position of DSI: In the application, DSI proposed to increase telephone expenses by \$63.
- 2) Position of ORS: ORS presented testimony that this proposed adjustment was due to rounding and was not due to any known and measurable change. Therefore, ORS did not

allow this adjustment. ORS Witness Scott Direct Testimony P. 13 and Audit Exhibit A-1.

- 3) Decision of the Commission: The Commission finds that no testimony or evidence was presented which would show this adjustment was known and measurable. Therefore, because no justification for the proposed increase to telephone expenses was found in the ORS audit or produced at the hearing, the Commission denies this adjustment proposed by DSI. Accordingly, the proposed increase of \$63 to telephone expense is not allowed.

K) Vehicle Expenses [ORS Adjustment #15]

- 1) Position of DSI: DSI's application reflects \$1,109 in vehicle expenses during the test year. This expense is comprised of \$858 for vehicle insurance and \$251 for vehicle repairs. The vehicle is a Ford F-250. DSI proposed to decrease this amount to \$1,000.
- 2) Position of ORS: ORS witness Scott testified the Ford F-250 was used 1/3 of the time by DSI, and the vehicle expenses should be adjusted accordingly to reflect DSI's portion of these expenses. One-third of \$1,109 is \$370, therefore, ORS's adjustment is (\$739) to Operating and Maintenance expenses. ORS also allocated and allowed one-third (1/3) of the total vehicle taxes of \$328 to DSI resulting in an adjustment to taxes other than income of (\$219 to remove two-thirds (2/3) of that amount. ORS Witness Scott Direct Testimony, P. 13 and Audit Exhibit A-2.
- 3) Decision of the Commission: The Commission adopts the ORS position on vehicle expenses and will allow the vehicle expenses to be adjusted to reflect DSI's expenses for its portion of the truck usage. Testimony shows DSI only uses the truck responsible for vehicle expenses 1/3 of the time. It would not be prudent to allow DSI rate payers to pay

for 100% of the truck expenses when the truck is only used 1/3 of the time for its benefit, therefore, the Commission adopts the ORS adjustments to vehicle expenses.

L) Insurance Premiums [ORS Adjustment #16]

- 1) Position of DSI: DSI did not propose to include group insurance premiums paid on DSI's Plant in Service in its expenses for the test year.
- 2) Position of ORS: ORS proposes to allocate a portion of group insurance coverage premiums for general liability coverage and umbrella coverage on DSI's Plant in Service. ORS witness Scott testified that an insurance payment of \$5,106 was made by BRUI. Of this payment, ORS determined during its audit that \$3,926 was for insurance coverage on vehicles not owned by DSI. ORS determined the remaining \$1,180 is for general liability and umbrella coverage on commercial property. ORS allocated the \$1,180 among the three companies based on single family equivalents resulting in an adjustment to DSI's expenses of \$256. ORS Witness Scott Direct Testimony, p. 13-14 and Audit Exhibit A-1.
- 3) Decision of the Commission: The Commission has found ORS's adjustments and manner in arriving at these adjustments to be reasonable and verifiable. The Commission allows the ORS recommended adjustments to DSI's expenses of \$256 for its portion of group insurance coverage premiums.

M) Gross Receipts Tax [ORS Adjustment #17]

- 1) Position of DSI: DSI proposes to include \$2,055 relating to the Gross Receipts Tax as reflected in its per book expenses.
- 2) Position of ORS: ORS witness Scott testified ORS applied the most recent gross receipts factor of 0.007733226 to the as adjusted revenues. The gross receipts factor includes costs for administration, the Public Service Commission, and the Office of Regulatory

Staff. ORS applied the factor to the as adjusted revenue of \$254,886 for total gross receipts of \$1,971 less the per book amount of \$2,055 for an adjustment of (\$84).

- 3) Decision of the Commission: The Commission adopts the adjustment made by ORS as reasonable and verifiable for regulatory purposes. Since the Commission has adopted and approved the ORS adjusted revenues, it is appropriate to apply the most recent gross receipts factor for an adjustment of (\$84) to DSI's Gross Receipts Tax Expense.

N) Uncollectibles Associated with As Adjusted Revenues [ORS Adjustment #18]

- 1) Position of DSI: DSI proposed to adjust revenues for a 1.5% allowance for uncollectibles associated with the as adjusted service revenues for an adjustment of \$4,897. DSI indicated this adjustment is reasonable in light of the fact DSI's uncollected rates in the test year were 2.66% based on test year revenues for sewer service of \$247,883 and annualized total revenues based on 100% collections from the customer base equaling \$254,636.16. Hearing Exhibit 6, Response to First Set of Data Requests, 1.28.
- 2) Position of ORS: ORS proposes to adjust expenses for a 1.5% allowance for uncollectibles associated with the as adjusted revenues return. ORS witness Scott testified that the 1.5% allowance is an industry standard and is less than DSI's actual test year uncollectible rate of 2.72% as determined by ORS. ORS also concludes a total adjustment of \$3,820 is reasonable. ORS Witness Scott Direct Testimony, P. 14 and Audit Exhibit A-1.
- 3) Decision of the Commission: The Commission agrees with ORS and adjusts DSI's test year expenses to reflect 1.5% in uncollectibles for a total adjustment of \$3,820. The Commission finds a 2.72% uncollectible rate unreasonable.

O) Service Revenues [ORS Adjustment #19]

- 1) Position of DSI: DSI proposes to adjust service revenues for the proposed increase in rates. DSI's proposed service revenue adjustment is \$73,943.
- 2) Position of ORS: ORS also proposes to adjust service revenues for the proposed increase in the amount of \$66,960 based on DSI's Phase-I rate structure. ORS did not include DSI's "After Construction" or Phase-II proposed rates as known and measurable at this time. Construction of the BRUI system has not begun, and DSI's future treatment costs are not known and measurable since the rates requested in BRUI's August 18, 2004 application for a rate increase have not been approved by the Commission. Further, allowing a phase-in of rates before the BRUI rate case is decided would require speculation on the outcome of the BRUI rate case and the resulting effects of the BRUI case on DSI's treatment costs. After the BRUI rate case is decided, DSI's future treatment costs will be certain as the rate charged by BRUI to DSI for treatment costs will be ascertainable. Lastly, DSI's customers should not bear the direct costs of construction for facilities owned by BRUI and Midlands Utility, Inc. ("MUI") since no construction will be performed on DSI's collection system. DSI's customers will contribute to the repayment of construction costs incurred by BRUI through the charges for treatment. ORS Witness Hipp Direct Testimony, P. 7, ll. 11-15; ORS Witness Hipp Surrebuttal Testimony, P. P. 2-3; ORS Witness Scott Direct Testimony, P. 15 and Audit Exhibit A-1. In other words, DSI's customers will contribute to the repayment of BRUI's construction costs indirectly, not directly.
- 3) Decision of the Commission: The Commission agrees with the ORS and disregards the "After Construction" costs as not known and measurable. To consider the "After

Construction” costs would be speculation. As such the Commission rejects the DSI’s adjustment and adopts the ORS adjustment of \$66,960.

P) Uncollectibles Associated with the Proposed Revenue [ORS Adjustment #20]

- 1) Position of DSI: DSI proposes to add to revenues an allowance of 1.5% of proposed revenues for uncollectibles. This adjustment amounts to \$4,897 which is computed using DSI’s total proposed revenues of \$321,596 multiplied by the 1.5% allowance.
- 2) Position of ORS: ORS proposes to adjust operating expenses for a 1.5% allowance for uncollectibles. As ORS witness Scott testified, because ORS has already allowed an amount for uncollectibles on the as adjusted service revenue, ORS needs only to make an additional adjustment for the proposed increase for service revenues. This adjustment was computed using the ORS proposed increase of \$66,960 multiplied by the 1.5% allowance resulting in a total adjustment of \$1,004. ORS Witness Scott Direct Testimony, P. P. 15 and Audit Exhibit A-1.
- 3) Decision of the Commission: As the Commission has accepted the ORS proposal for Adjustment #19, the Commission also adopts the ORS adjustment to allow for 1.5% uncollectibles on the ORS proposed increase in service revenues of \$66,960 for an adjustment of \$1,004.

Q) Gross Receipts Taxes Associated with the Proposed Increase [ORS Adjustment #21]

- 1) Position of DSI: DSI did not propose to adjust for gross receipts taxes associated with the proposed increase.
- 2) Position of ORS: ORS proposed to adjust for gross tax receipts associated with the proposed increase. ORS presented testimony that it used the proposed increase of

\$66,960 multiplied with the gross receipts factor of 0.007733226 for a total adjustment of \$518. ORS Witness Scott Direct Testimony, P. 15 and Audit Exhibit A-1.

- 3) Decision of the Commission: The Commission believes the adjustment for gross tax receipts is reasonable and consistent with the previous adjustments. Since the Commission has adopted and approved the ORS proposed increase in service revenue, it is appropriate to apply the most recent gross receipts factor to this amount for an adjustment of \$518.

R) Income Taxes [ORS Adjustment #22]

- 1) Position of DSI: DSI proposes to adjust for income taxes associated with DSI's proposed increase in income. DSI states in its application that this adjustment is \$1,847.
- 2) Position of ORS: ORS also proposes to adjust for income taxes associated with the proposed increase. ORS witness Scott testified that ORS's adjustment was based on revenues, expenses, and interest expense after the proposed increase for a total adjustment of \$12,205. DSI is organized as a Sub-Chapter S corporation and does not pay income taxes. Instead, income taxes are paid by the shareholders on their personal income tax returns. Although DSI will not pay corporate income taxes, ORS proposes to allow income taxes on the net income of DSI since its operations cause a tax liability. ORS's proposed treatment of income taxes is consistent with the Commission's decision in the Madera Utilities, Inc. rate case. *See* Docket No. 2003-368-S. ORS Witness Scott Direct Testimony, P. P. 15-16 and Audit Exhibit A-3.
- 3) Decision of the Commission: The Commission agrees with both DSI and ORS that the income taxes associated with the proposed increase should be adjusted. However, the

Commission adopts ORS's total adjustment of \$12,205. The allowance of income taxes is due to utility operations being the source of the tax liability.

S) Customer Growth [ORS Adjustment #23]

- 1) Position of DSI: DSI did not propose to adjust net operating income for customer growth.
- 2) Position of ORS: ORS proposes to adjust Net Operating Income for Customer Growth after the proposed increase. ORS used a customer growth factor of 0.007634 based on DSI's customer growth during the test year and applies the factor to the Net Operating Income after the proposed increase of \$49,923 for an adjustment of \$381. ORS Witness Scott Direct Testimony, p. 16 and Audit Exhibit A-4.
- 3) Decision of the Commission: The Commission finds that DSI experienced a growth in customers from 131 customers at the beginning of the test year to 132 customers at the end of the test year based on evidence presented by ORS. Using the Computation of Growth factor of $(\text{Ending Customers} - \text{Average Customers}) / \text{Average Customers}$, the Commission agrees with ORS's customer growth factor of 0.007634 and adjusts revenues \$381.

Summary of Adjustments to Expenses:

The adjustments to test year operating expenses adopted herein result in an increase in O&M Expenses of \$18,438; an increase in General and Administrative ("G&A") Expenses of \$5,476; a decrease in Depreciation Expense of (\$9,976); a decrease in Taxes Other Than Income of (\$303); and a decrease in Interest Expense of (\$2,249). Adding these adjustments to per books total Operating Expenses of 250,029 resulting in Total Operating Expenses As Adjusted of \$261,415.

7. The operating margin for the test year under present rates and after accounting and pro forma adjustments approved herein is (3.28%). The calculation for the operating margin using the test year adjusted operating revenues of \$261,415 as approved herein and test year as adjusted operating expenses of \$254,866 as approved herein was proved by ORS witness Scott. Adjusted test year operations result in a “Net Loss for Return” of (\$6,549). Using the adjusted Net Loss for Return less Interest Expense (if applicable) divided by Operating Revenues, Staff calculated a negative operating margin of (3.28%).

The following table indicates (1) DSI’s gross revenues for the test year after adjustments approved herein under the current rate schedule; (2) DSI’s operating expenses for the test year after accounting and pro forma adjustments and adjustments for known and measurable out-of test year occurrences approved herein; and (3) the operating margin under the presently approved schedule for the test year:

TABLE A

	<u>Before Increase As Adjusted</u>
Operating Revenues	\$254,866
Operating Expenses	<u>261,415</u>
Net Operating Income/Loss	(6,549)
Add: Customer Growth	0
 NET INCOME/(LOSS) FOR RETURN	 <u>(6,549)</u>
 Operating Margin	 <u>3.28%</u>
(Interest Expense For Operating Margin) ¹	<u>\$1,805</u>

¹ Interest synchronization was updated to a fifteen-day cash working capital allowance. Because ORS updated rate case expense based on DSI’s late-filed exhibit, ORS updated the cash working capital allowance. The cash working capital allowance was updated because DSI bills in advance rather than in arrears and therefore, does not require the full 1/8 allowance.

8. Based on the operating margin for the test year after accounting and pro forma adjustments, we find that DSI has demonstrated a need for an increase in rates. Adjusted test year operations reveal an operating margin of (3.28%). Expenses of operating the system outweigh the revenues of the system.

9. When applied to as adjusted test year operations, the rates requested and proposed by DSI for the Phase-I increase in rates result in an operating margin of 14.30%. Information concerning the effect of the proposed rates when applied to as adjusted test year operations of DSI is found in ORS exhibits introduced during the hearing. ORS witness Scott calculated the rates proposed by DSI for the Phase-I rate increase, would produce additional revenues of \$66,690 which result in an operating margin of 14.30%. Hearing Exhibit 4, Audit Exhibit A.

10. The Commission finds that an operating margin of 14.30% is just and reasonable and results in just and reasonable rates to charge for the services offered by DSI.

11. The level of operating revenues required in order for DSI to have an opportunity to earn a 14.30% operating margin is found to be \$321,826.

The following table indicates (1) DSI's gross revenues for the test year after adjustments approved herein, under the proposed Phase-I of rate schedule; (2) DSI's operating expenses for the test year after accounting and pro forma adjustments and adjustments for known and measurable out-of-test year occurrences approved herein; and (3) the operating margin under the proposed Phase-I of rate schedule:

TABLE B

	<u>Before Increase</u>
Operating Revenues	\$321,826
Operating Expenses	<u>274,349</u>
Net Operating Income/Loss	47,477
Add: Customer Growth	362
 NET INCOME/(LOSS) FOR RETURN	 <u>47,839</u>
 Operating Margin	 <u>14.30%</u>
(Interest Expense For Operating Margin) ²	<u>\$1,805</u>

12. In order to meet the income requirement for the opportunity to earn an operating margin of 14.30%, DSI will require additional revenues of \$66,960. This amount of additional revenues represents DSI's proposed Phase-I increase. Because the Phase-I of DSI's proposed increase will provide sufficient revenues to meet the income requirement needed, the second phase of the proposed increase is not ordered at this time.

In further support of not allowing the second phase of the increase, DSI could not provide known and measurable information to justify the second phase of the proposed rates. There were no additional known and measurable out of test year adjustments which could justify the second phase of the increase. Accordingly, the second phase of the increase is not approved.

13. The Commission finds that the increase in tap fees should not be approved.

By its Application, DSI requested to increase its customer tap fees by 300%. However, DSI did not provide cost justification for the proposed increase in tap fees with its application as required by 26 S.C. Code Regs. 103-512.4.A.9 (Supp. 2004) and 103-502(11). From the ORS

² Interest synchronization was updated to a fifteen-day cash working capital allowance. Because ORS updated rate case expense based on DSI's late-filed exhibit, ORS updated the cash working capital allowance. The cash working capital allowance was updated because DSI bills in advance rather than in arrears and therefore, does not require the full 1/8 allowance.

audit of DSI, the requested increase in tap fees appears to be due to increased plant investment upon upgrade of the BRUI wastewater treatment facility (“WWTF”). DSI also stated in responses to ORS Data Requests that “little material cost is associated with the tap.” Hearing Exhibit No. 6, Response to Data Request 1.6(f). Further, DSI indicated that tap fees are used to pay officer salaries. Hearing Exhibit No. 6, Response to Data Request 1.6(f) and (h). Normally, tap fees are booked as contributions in aid of construction (“CIAC”). Because the total cost of the upgrades to BRUI’s WWTF are not known at this time, the appropriate amount of the tap fee cannot be calculated. Therefore, the Commission finds the requested tap fee increase to be unnecessary at this time as the BRUI upgrade is not complete and final construction costs of that facility are not known and measurable.

14. The current performance bond of DSI is insufficient and does not meet the requirements of S.C. Code Ann. Section 58-5-720 (Supp. 2004).

S.C. Code Ann. Section 58-5-720 (Supp. 2004) was amended in May 2000 and increased the required amounts of performance bonds to a minimum of \$100,000 and a maximum of \$350,000. Thereafter, the Commission’s regulations were amended to provide for determining the amount of bond required by each utility. 26 S.C. Code Regs. 103-512.3.1 (Supp. 2004) was amended to provide that the amount of the bond should be based on the total amount of certain expense categories.

ORS witness Hipp provided testimony concerning the performance bond filed by DSI. According to witness Hipp, DSI has on file a performance bond with a face amount of \$10,000. The performance bond is secured by a personal financial statement of Mr. Keith Parnell, President of DSI. Witness Hipp opined that the performance bond is insufficient because it does not meet the statutory amount required for the performance bond. Further, Ms. Hipp testified

that that the surety filed to support the performance bond is insufficient because (1) the amount of the surety does not comply with the requirement of 26 S.C. Code Regs. 103-512.3.1 (Supp. 2004); (2) the financial statement does not accurately depict the net worth of the surety as required by 26 S.C. Code Regs. 103-512.3.2 and 103-512.3.3; (3) the real estate indicated on the financial statement is in the name of another person and there is no documentation indicating authorization to pledge the real estate as part of the surety; and the same financial statements and surety are used to secure performance bonds of DSI's sister companies BRUI and MUI. Witness Hipp calculated that an appropriate bond for DSI, based upon the criteria contained in 26 S.C. Code Regs. 103-512.3.1, would be \$236,146. ORS Witness Hipp Direct Testimony P.P. 5 and Surrebuttal Testimony P.P. 5-7.

DSI witness Parnell testified that DSI had complied with the Commission's requirements concerning the performance bond. Parnell Rebuttal Testimony, P. 10, ll. 12-16. In the BRUI rate case, Mr. Parnell indicated that he had been advised that DSI was in compliance with the performance bond. DSI submitted a letter written by a Commission staff member who indicated that DSI was in compliance with all filing requirements of the Commission, including the performance bond. Hearing Exhibit No.7. Even if a Commission employee erroneously advised DSI that its performance bond was satisfactory, the Commission cannot be estopped from enforcing the statute based on an employee's error or unauthorized act. See *South Carolina Coastal Council v. Vogel*, 292 S.C. 449, 357 S.E.2d 187 (Ct. App. 1987). In *Vogel*, a Coastal Council employee told the Vogels that they could build a deck on their beach house seaward of the critical line. The court held that a state agency cannot be estopped from the legitimate exercise of its police power because of an error of its agent which has been relied on by a third party to his detriment. Therefore, even though a Commission employee told DSI that the

performance bond on file was sufficient, the Commission is not estopped from enforcing the statute.

Upon review of this issue, we find that DSI's bond does not meet the statutory requirements of S.C. Code Ann. Section 58-5-720 (Supp. 2004). The statute requires a minimum bond of \$100,000 up to a maximum of \$350,000. On cross-examination of ORS witness Hipp, counsel for DSI tried to make the point that the bond could only be set when a utility begins operations and obtains its certificate of public convenience and necessity. However, this statute cannot be construed so narrowly. The requirement of the performance bond is to protect the public and to insure that the utility provides adequate and proper service. Under the assertions made by DSI, the bond could never be increased once a utility receives its certification to operate. This is an absurd reading of the statute.

Even if DSI's position was correct, the bond should have been increased when the Parnell brothers acquired the company from their father in January 2001. The increased bond amounts required by S.C. Code Ann. § 58-5-720(Supp. 2004) became effective in May 2000. Therefore, had the Parnell brothers sought approval of the transfer as required by 26 S.C. Code Regs. 103-504 (Supp. 2004), even under DSI's argument, the performance bond would have been increased at that time. If DSI's argument is accepted, DSI would benefit from violating 26 S.C. Code Regs. 103-504 because the bond could not be increased now. This is another absurd result and one that the Commission cannot accept. Therefore, based upon the test year expenses as calculated by ORS witness Hipp, the Commission finds that DSI should file a performance bond in the amount of \$236,146.

14. DSI shall prepare and file with the Commission and with ORS a business plan.

The record reveals that the Companies owned by the Parnells, particularly BRUI and MUI, have expended large sums on fines for noncompliance with environmental laws and regulations. BRUI, the sister company which treats wastewater for DSI, is currently operating under a consent order with DHEC. Mr. Parnell testified, and the application also states, that the intention of the Parnells is to merge all three companies into one company. However, Mr. Parnell indicated that there are no firm plans or timetable for a merger to occur.

The ORS witnesses recommended that the Commission require DSI to merge with its affiliated companies. However, this Commission does not have the authority to tell a company to merge with another. While this Commission's decisions are often based on the prudence or imprudence of management decisions, those decisions involve a review of the management decisions, and this Commission has no authority to manage the utility. But while this Commission cannot manage the day to day operations of the utility, this Commission can require utilities under its jurisdiction to investigate various avenues or strategies to assist the utility.

The record reveals that the stated intention of the owners is to merge DSI, BRUI, and MUI into one company. According to witness Parnell, there is no document detailing how or when a merger could occur. It is also obvious from the record, that DSI and the other companies owned by the Parnell brothers, have a history of compliance issues. Mr. Parnell admitted on cross examination to several areas of noncompliance with PSC rules and regulations. We find that a comprehensive business plan, such as suggested by ORS witness Hipp, would be of great benefit to DSI. A business plan is not used solely for securing a loan or financing as suggested by Mr. Parnell. A business plan provides a guide for a company and can be used to measure successes of a company. We find that a business plan which addresses the needs of the utility such as regulatory compliance, business practices, finances, and plant needs would benefit all of

these companies. As suggested to by Ms. Hipp, we find that DSI should prepare and file a business plan which addresses, at a minimum, the following criteria: (a) an implementation plan to effectuate the stated intentions of the owners to merge all three entities (DSI, BRUI, and MUI) under one Company in order to provide for cost savings and efficiencies of scale; (b) formulation of a facilities plan to address current and future plant needs; (c) identification of a managerial plan to address information technology upgrades and business practice improvements; (d) development of operations and maintenance procedures to ensure regulatory compliance; and (e) preparation of a financial plan to provide short/long-term budgeting, renewal/replacement schedules, and capital improvements.

15. The Commission finds that DSI should maintain its books and records in accordance with the NARUC Uniform System of Accounts for Class C Sewer Utilities, as adopted by this Commission.

DSI witness Parnell admitted that DSI is not maintaining its books and records under the NARUC Uniform System of Accounts. The Commission's rules and regulations require sewerage utilities to use the NARUC Uniform System of Accounts. Keeping books and records in compliance with NARUC's Uniform System of Accounts will not only mean compliance with 26 S.C. Code Regs. 103-517 but will also make regulatory audits easier and less burdensome. ORS requested that DSI be required to maintain its books and records under NARUC's Uniform System of Accounts.

CONCLUSIONS OF LAW

Based upon the Findings of Fact as contained herein and the record of this proceeding, the Commission makes the following Conclusions of Law:

1. DSI is a public utility as defined in S.C. Code Ann. § 58-5-10(3) (Supp. 2004) and as such is subject to the jurisdiction of this Commission.

2. The appropriate test year on which to set rates for DSI is the twelve month period ending December 31, 2003.

3. Based on the information provided by the parties, the Commission concludes the appropriate rate setting methodology to use as a guide in determining the lawfulness of DSI's proposed rates and for the fixing of just and reasonable rates is operating margin.

4. For the test year of December 31, 2003, the appropriate operating revenues, under present rates and as adjusted in this Order, are \$254,866, and the appropriate operating expenses, under present rates and as adjusted in this Order, are \$261,275.

5. We conclude that DSI has demonstrated a need for a rate increase as operating expenses outweigh operating revenues. However, we cannot conclude that DSI has demonstrated the need for the two-phase increase in rates proposed in the application. DSI has not provided justification for an increase beyond the Phase-I rates as no additional known and measurable expenses have been identified. After Phase-I of the rates, DSI should have an operating margin of 14.30%. We conclude that an operating margin of 14.30% is fair and reasonable and results in rates which are just and reasonable.

6. In order for DSI to have the opportunity to earn the 14.30% operating margin found fair and reasonable herein, DSI must be allowed additional revenues of \$66,960.

7. The proposed increase in the tap fee is not allowed because the proposal does not correctly identify the expenses associated with the tap fee as required by 26 S.C. Code Regs. 103-502.11., and the proposal is based on costs that are not known and measurable.

8. The rates as set forth in the attached Appendix 1 are approved for use by DSI and are designed to be just and reasonable without undue discrimination and are also designed to meet the revenue requirements of DSI.

9. Based upon the requirements of S.C. Code Ann. Section 58-5-720 (Supp. 2004) and 26 S.C. Regs. 103-512.3.1 (Supp. 2004), DSI shall post a performance bond of \$236,146. The performance bond shall be in a form as allowed by S.C. Code Ann. Section 58-5-720 and 26 S.C. Code Regs. 103-512.3 through 103-512.3.3 (Supp. 2004).

10. Due to DSI's history of noncompliance and fines with DHEC and due to the admitted violations of the PSC rules and regulations, DSI shall prepare and file a business plan addressing at a minimum the following criteria: (a) an implementation plan to effectuate the stated intentions of the owners to merge all three entities (DSI, BRUI, and MUI) under one Company in order to provide for cost savings and efficiencies of scale; (b) formulation of a facilities plan to address current and future plant needs; (c) identification of a managerial plan to address information technology upgrades and business practice improvements; (d) development of operations and maintenance procedures to ensure regulatory compliance; and (e) preparation of a financial plan to provide short/long-term budgeting, renewal/replacement schedules, and capital improvements.

IT IS THEREFORE ORDERED THAT:

1. DSI is granted an operating margin for its sewer service of 14.30%
2. The schedule of rates and charges attached hereto as Appendix A are hereby approved for service rendered on or after the date of this Order. Further, the schedule is deemed filed with the Commission pursuant to S.C. Code Ann. Section 58-5-240 (Supp. 2004).

3. Should the schedules approved herein not be placed into effect within three months of this Order, DSI shall require written approval from this Commission to place the rates into effect.

4. DSI shall maintain its books and records in accordance with the NARUC Uniform System of Accounts as adopted by this Commission.

5. Pursuant to and consistent with S.C. Code Ann. Section 58-5-720 and 26 S.C. Code Regs. 103-512.3 through 103-512.3.3 (Supp. 2004), DSI shall post a performance bond with a face value of \$236,146.

6. DSI shall prepare and file with the Commission and with ORS a business plan as described herein. This business plan shall be filed within 6 months of the date of this Order.

7. This Order shall remain in full force and effect until further Order of the Commission.

Randy Mitchell, Chairman

ATTEST:

O'Neil Hamilton, Vice Chairman

